

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

LINNEA MICHAELS, MARY-KATHRYN ZONI,
and REV. SUSAN J. McCONE

Plaintiffs,

v.

FELLOWSHIPS AT AUSCHWITZ FOR THE
STUDY OF PROFESSIONAL ETHICS, C. DAVID
GOLDMAN, ANDREW EDER, ERIC MULLER,
DEBBIE BISNO, NANCY ANGOFF, FREDERICK
MARINO, THORSTEN WAGNER, JOHN DOES 1-
10, and XYZ CORPORATIONS 1-10, jointly and
severally,

Defendants.

Docket No. 1:20-cv-05414-RA

**DEFENDANTS' NOTICE OF
MOTION FOR SUMMARY
JUDGMENT AND DISMISSAL OF
THE COMPLAINT**

TO: James P. Gianakis, Esq.
GIANAKIS LAW LLC
315 Madison Avenue, 3rd Floor
New York, NY 10017
Attorney for Plaintiffs

PLEASE TAKE NOTICE that Defendants Fellowships at Auschwitz for the Study of Professional Ethics, Inc. (“FASPE”), C. David Goldman (“Goldman”), Andrew Eder (“Eder”), Eric Muller (“Muller”), Debbie Bisno (“Bisno”), Nancy Angoff (“Angoff”), Frederick Marino (“Marino”), and Thorsten Wagner (“Wagner”) (all referred to herein collectively as “Defendants”; Goldman, Eder, Muller, Bisno, Angoff, Marino, and Wagner referred to herein collectively as “Individual Defendants”), hereby move for the following relief:

1. Dismissal of the Complaint (Doc. 1) under Federal Rule of Civil Procedure 12(b)(2), for lack of personal jurisdiction, with respect to Defendants Eder, Muller, Bisno, Angoff, and Marino;

2. Dismissal of the Complaint under Federal Rule of Civil Procedure 12(b)(6), for failure to state a claim upon which relief can be granted, with respect to Defendants Muller, Bisno, Angoff, and Marino;

3. Dismissal with prejudice under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for tax fraud;

4. Dismissal with prejudice under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for statutory tax fraud;

5. Dismissal with prejudice under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for breaches of corporate fiduciary responsibilities;

6. Dismissal with prejudice under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for violations of FASPE's 501(c)(3) status;

7. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for violations of labor law;

8. Summary judgment dismissing with prejudice any and all claims asserted in the Complaint under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.;

9. Summary judgment dismissing with prejudice any and all claims asserted in the Complaint under the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.;

10. Dismissal with prejudice under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint under the New York State Human Rights Law ("NYSHRL") on behalf of Plaintiff the Rev. Susan J. McCone ("McCone");

11. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint under the NYSHRL against the Individual Defendants;

12. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint of retaliation for whistleblowing, with any and all such claims asserted on behalf of McCone being dismissed with prejudice;

13. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for breach of contract on behalf of Plaintiffs Linnea Michaels and Mary-Kathryn Zoni;

14. Dismissal under Federal Rule of Procedure 12(b)(6) of any and all claims asserted in the Complaint for breach of the duty of loyalty;

15. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for breach of fiduciary duty;

16. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for common law fraud;

17. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for fraud in the inducement;

18. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for intentional misrepresentation;

19. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for promissory estoppel;

20. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for estoppel;

21. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for unjust enrichment;

22. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for negligence;
23. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for negligent misrepresentation;
24. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for defamation;
25. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for tortious interference with contract;
26. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for tortious interference with prospective economic advantage;
27. Dismissal under Federal Rule of Civil Procedure 12(b)(6) of any and all claims asserted in the Complaint for conversion;
28. Dismissal of any and all remaining claims asserted in the Complaint under 28 U.S.C. 1367(c)(3).

PLEASE TAKE FURTHER NOTICE that in support of their motion, Defendants rely on the following documents, submitted herewith: (1) Memorandum of Law, (2) Local Civil Rule 56.1 Statement of Material Facts, and (3) Declaration of C. David Goldman.

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